



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

August 30, 1988

Mr. Kenneth H. Ashworth
Commissioner
Coordinating Board
Texas College and University System
P. O. Box 12788
Austin, Texas 78711

LO-88-101

Dear Commissioner Ashworth:

You ask whether the administrative services tax provided for in article 4.11A of the Insurance Code applies to group insurance programs for state college and university employees established under article 3.50-3 of the code. Article 4.11A, adopted in 1987, imposes a tax on insurance carriers who receive administrative or service fees, measured by the amount of fees received.

Section 9(b) of article 3.50-3 provides:

Premiums on policies, insurance contracts,
or agreements with health maintenance organi-
zations established under this Act are not
subject to any state tax.

We believe the provisions of section 9(b) of article 3.50-3, quoted above, are controlling as to the issue you present, because they are specific with respect to state tax exemption for premiums in connection with insurance programs established under article 3.50-3.

It is clear that the "premiums" exempted by section 9(b) from state tax would include the kinds of administrative or service charges to which the article 4.11A tax would apply, but for the section 9(b) exemption. See, e.g., section 8(a)(1) (requiring article 3.50-3 carriers to account for the administrative charges as a component of the "cumulative amount of premiums actually remitted to the carrier").

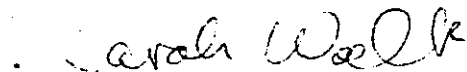
Thus, the premiums paid under article 3.50-3 would include administrative costs. Those premiums, including the amounts attributable to administrative costs, would be

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exempted from state taxation under article 4.11A, by operation of section 9(b) of article 3.50-3.

Your request also presents other issues for our consideration in the event that we determine that the article 4.11A administrative service tax applies to article 3.50-3 insurance programs. Since we conclude that the administrative services tax does not apply to article 3.50-3 insurance programs, we need not answer your other questions.

Very truly yours,



Sarah Woelk, Chief
Letter Opinion Section



Rick Gilpin, Chairman
Opinion Committee

APPROVED: Opinion Committee

SW/RG/WW/bc

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